

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0096P
Individual Income Tax
Calendar Year 1997 and 1999

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ISSUE(S)

I. **Tax Administration** – Underpayment Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed and states that the penalty was never applied to previous years. Taxpayer faxed information on May 15, 2001 regarding the Underpayment penalty for 1997 that reduced the amount of tax carried forward to 1998. A discussion regarding the tax was held on May 16, 2001 via telephone.

In reviewing the taxpayer's file, it was noted that the taxpayer actually protested the 1999 underpayment penalty for which a hearing was scheduled. Taxpayer was forwarded a copy of an IT-2210 prepared by the department that showed an underpayment penalty of \$312.72. The hearing officer has reviewed the prepared IT-2210 and has determined that it was correctly prepared. The taxpayer was mailed a copy of the IT-2210 and a copy of *The Collection Process* brochure.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests the department waive the penalty assessed because it had been paying its tax consistently with the same method for several years and no one had explained the underpayment penalty after consistent requests.

The 1997 Indiana Resident Individual Tax Booklet, page 29, and the 1999 Indiana Resident Individual Tax Booklet, page 30, clearly state who must make estimated income tax payments. An ES-40 Estimated Tax Payment coupon and an Estimated Income Tax Worksheet are included in the booklet. The instructions are clear.

IC 6-3-4-4.1 (c) states:

Every individual who has gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable years. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars (\$400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-1-2.1 (b).

The IT-40 return line 31 also clearly lists penalty for underpayment of estimated tax for 1997 and line 32 for 1999.

Taxpayer has not provided reasonable cause to allow a waiver of the underpayment penalty.

FINDING

Taxpayer's protest is denied.